

**AAFS Securitisation S.A.**  
**SYNCHRON AMC (COMPARTMENT 19)**

**TERMS AND CONDITIONS**

**BOND CLASS I: UP TO USD 50.000.000,00 NOTES**

**(ISIN: CH1108675682)**

**BOND CLASS II: UP TO USD 50.000.000,00 NOTES**

**(ISIN: CH1108675690)**

**IMPORTANT INFORMATION**

The regulatory and fiscal conditions relating to the Notes (as defined hereinafter) may be subject to changes that have an adverse effect on the amounts payable on the Notes and may lead to the Issuer repaying the Notes prematurely or any Agent making adjustments with respect to the values and/or methods used to determine amount. The Noteholders should in particular be aware that:

- (i) payments in relation to the Notes are entirely qualified by, and subject to, the performance of the Reference Strategy and the Reference Portfolio Components and that the rate of return and/or repayment of the Notes might consequently be low (or even zero);
- (ii) the value of the Reference Portfolio Components and the performance of the Reference Strategy may be subject to significant fluctuations over time and that there is a risk of a partial or even complete reduction in the value of the Reference Portfolio Components and the Reference Strategy as such;
- (iii) the Issuer will not necessarily have any rights (including voting rights) in relation to the Reference Portfolio Components;
- (iv) the Noteholders will not have direct recourse to the Reference Portfolio Components and that the investment in the Notes may be associated with a higher risk than a direct investment in the Reference Portfolio Components;
- (v) returns from an investment in the Notes are not guaranteed and depend on various factors upon which the Issuer has no influence and that, in the absence of any secondary market on which the Notes may be traded, the proceeds which can be achieved from a liquidation of the Notes are uncertain;
- (vi) the Strategy Sponsor will maintain the Underlying in accordance with the Strategy Description in its sole responsibility and discretion and that the role of the Issuer is limited to providing the Noteholders with exposure to a synthetic portfolio of assets to which the proprietary investment strategy (which is not known in detail to or influenced or controlled by the Issuer) is applied in accordance with the Strategy Description; and
- (vii) the Issuer assumes no responsibility with respect to (i) the suitability and ability of the Strategy Sponsor to maintain the Underlying, (ii) the appropriateness of the Underlying to achieve the purpose as described in the Strategy Description and (iii) the compliance of the Strategy Sponsor with the Strategy Description.

An investment in the Notes is only suitable for persons who have carefully examined the documentation for the Notes and are able to assess the risks associated with the Notes (including risks resulting from their and from the Reference Strategy, as well as the risks of its fiscal and regulatory classification) based on their knowledge and experience and are able to bear any losses up to a loss of their entire investment. A purchase of the Notes is not suitable for retail clients in terms of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID II).

## 1. THE NOTES, DEFINITIONS

### 1.1. The Notes

This tranche of notes (the "**Notes**") is issued by AAFS Securitisation S.A. (the "**Issuer**") for the account of its compartment Synchron AMC (Compartment 19) (the "**Issuing Compartment**") in the Specified Currency as notes in bearer form with an aggregate nominal amount of up to USD 50.000.00,00 in Bond Class I and up to USD 50.000.000,00 in Bond Class II (the "**Nominal Amount**") with re-opening clause in accordance with these terms and conditions (the "**Terms and Conditions**"). Each Noteholder has the right to request payment from the Issuer pursuant to these Terms and Conditions of

- (i) the Interest Amount specified in Condition 5, and
- (ii) the Redemption Amount in accordance with Condition 6.

Whether and to what extent the Issuer must render payments pursuant to these Terms and Conditions largely depends on the value of the Reference Portfolio Components and the performance of the Reference Strategy.

### 1.2. Definitions

For the purposes of these Terms and Conditions (and unless the context requires otherwise), the following words in bold letters shall have the following meanings:

**"Affiliate"** means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person or any entity, directly or indirectly, under common control with that person, and for this purpose "control" means ownership of a majority of the voting power of the entity or person.

**"Agent"** means the Administration and Calculation Agent and the Paying Agent, as the case may be.

**"Business Day"** means each day (other than a Saturday or Sunday) on which the Clearing System, the Agents, the Issuer and the TARGET2 System are open for business and commercial banks and foreign exchange markets settle payments in the Banking Day Financial Centre.

**"Administration and Calculation Agent"** means AAFS Services S.A. or any other entity appointed by the Issuer from time to time in accordance with Condition 9.2.

**"Calculation Date"** means each day on which the Reference Value is to be communicated in accordance with the Strategy Description by the Strategy Sponsor or the Strategy Calculation Agent, as the case may be.

**"Cancellation Amount"** has the meaning given in Condition 7.3.

**"Change in Law"** means that due to

- (a) the coming into effect of changes in applicable laws or regulations (including but not limited to tax laws or capital market provisions) or
- (b) a change in relevant case law or administrative practice (including the administrative practice of the tax or financial supervisory authorities),
- (c) a missing admission, recognition or registration of the Reference Strategy or any person acting in relation to the Reference Strategy (in particular, the administrator of the Reference Strategy) on the basis of an existing or changed law,

in the reasonable discretion of the Issuer (i) any exposure to the Reference Strategy or the holding, acquisition, use or sale of any Reference Portfolio Components or assets that are needed in order to hedge price risks or other risks with respect to its obligations under the Notes is or becomes wholly or partially illegal for the Issuer or (ii) the costs associated with the obligations under the Notes have increased substantially (including but not limited to an increase in tax obligations, the reduction of tax benefits or other negative consequences

with regard to tax treatment), provided that such changes or circumstances become effective on or after the Issue Date.

**"Clearing System"** means SIX SIS AG, Baslerstrasse 100, CH-4600 Olten, Switzerland or any other clearing system appointed by the Issuer from time to time.

**"Compartment Assets"** shall have the meaning given in Condition 3.3.

**"Compartment Expenses"** means all costs, fees, expenses, duties, taxes and other liabilities incurred in connection with the setup and maintenance of the Issuing Compartment and its operation, including the Structuring Fee, any transaction fees and commissions in connection with the issuance and redemption of the Notes and the acquisition, holding and disposal of the Compartment Assets.

**"Companies Act 1915"** means the Luxembourg act dated 10 August 1915 on commercial companies, as amended.

**"Condition"** means any provision of these Terms and Conditions.

**"Corrected Value"** has the meaning given in Condition 4.2.

**"Event of Default"** has the meaning given in Condition 7.3.

**"Free Liquidity"** means (i) the fair market value of those Compartment Assets which are held in Liquid Assets, less (ii) an amount which is in the reasonable discretion of the Administration and Calculation Agent required as a provision to cover any future Compartment Expenses.

**"Force Majeure Event"** means an event or any circumstances which prevent or otherwise impede the determinations or the performance of the duties of the Issuer and/or any Agent appointed in relation to the Notes, including, without limitation, a system failure, fire, building evacuation, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labour disruption or any similar intervening circumstance.

**"Global Note"** has the meaning given in Condition 2.

**"Hedging Disruption"** means that the Issuer (in its reasonable discretion) is not able

(a) to close, continue or carry out transactions or acquire, exchange, hold or sell assets (respectively) which are needed in order to hedge price risks or other risks with regard to its obligations under the Notes; or

(b) to realize, reclaim or pass on proceeds from such transactions or assets,

under conditions which are economically substantially equivalent to those on the Issue Date.

**"Increased Costs of Hedging"** means that the Issuer (in its reasonable discretion) has to pay a substantially higher amount of taxes, duties, expenditures and fees (with the exception of broker fees) compared to the Issue Date in order to

(a) close, continue or carry out transactions or acquire, exchange, hold or sell assets (respectively) which are needed in order to hedge price risks or other risks with regard to its obligations under the Notes; or

(b) realize, reclaim or pass on proceeds from such transactions or assets,

whereas cost increases due to a deterioration of the creditworthiness of the Issuer are not considered as any such Increased Costs of Hedging.

**"Initial Value"** means 100% for all Bond Classes.

**"Interest Payment Date"** means 01<sup>st</sup> June of any given calendar.

**"Interest Reference Date"** means 01<sup>st</sup> June of any given calendar.

**"Issue Date"** means the day on which the first Notes are issued, presumably 01<sup>st</sup> June 2023.

**“Issuer”** shall have the meaning given in Condition 1.1.

**“Issuer Call Date”** shall have the meaning given in Condition 7.2.

**“Issuer Call Notice”** shall have the meaning given in Condition 7.2.

**“Issuer Call Right”** shall have the meaning given in Condition 7.2.

**“Issuing Compartment”** shall have the meaning given in Condition 1.1.

**“Liquid Assets”** means cash at banks and money market instruments.

**“Liquidation Amount”** has the meaning given in Condition 7.4.

**“Market Disruption Event”** means the suspension of or failure to calculate the Reference Value on any Calculation Date or the non-communication of the calculation of the Reference Strategy as a result of applying a provision of the Strategy Description or a decision of the Strategy Sponsor or for any other reason, to the extent that such event occurs prior to the normal calculation of the Reference Value which is (in the reasonable discretion of the Administration and Calculation Agent) relevant for the Notes and continues at the point of time of the normal calculation and is material.

**“Maturity Date”** means 01<sup>st</sup> June 2033 (with re-opening clause).

**“Nominal Amount”** shall have the meaning given in Condition 1.1.

**“Noteholder”** means any person or entity holding, from time to time, legal title in a Note.

**“Noteholder Put Date”** shall have the meaning given in Condition 7.1.

**“Noteholder Put Notice”** shall have the meaning given in Condition 7.1.

**“Noteholder Put Right”** shall have the meaning given in Condition 7.1.

**“Notes”** shall have the meaning given in Condition 1.1.

**“Paying Agent”** means ISP Securities AG, Bellerivestrasse 45, CH-8008 Zurich, Switzerland or any other entity appointed by the Issuer from time to time in accordance with Condition 9.2.

**“Payment Date”** has the meaning given in Condition 10.3.

**“Proceedings”** has the meaning given in Condition 18.2.

**“Redemption Date”** means the Maturity Date, the Noteholder Put Date or the Issuer Call Date, as the case may be.

**“Reference Value”** means the Strategy Value as determined from time to time in accordance with the Strategy Description.

**“Reference Portfolio Components”** has the meaning given in the Strategy Description.

**“Regulatory Event”** means a change of law, regulation, interpretation, action or response of a regulatory authority or other economic circumstances, as a result of which the regulatory treatment of the Notes has become less favourable to, or resulted in a burden on, the Issuer (including, without limitation, in connection with the application of the Alternative Investment Fund Managers Directive 2011/61/EU).

**“Replacement Specification”** has the meaning given in Condition 4.2.

**“Securitisation Act 2004”** means the Luxembourg act of 22 March 2004 on securitization, as amended.

**“Series”** has the meaning given in Condition 15.1.

**“Specified Currency”** means USD (“US-Dollar”) for all Bond Classes.

**“Strategy Call Event”** means each of the following events:

- (a) the definitive discontinuance of the maintenance and/or calculation of the Reference Strategy due to a decision of the Strategy Sponsor;

- (b) the (i) the coming into effect of changes in laws or regulations (including but not limited to capital market regulations) or (ii) a change in relevant case law or administrative practice (including but not limited to the administrative practice of the financial supervisory authorities) or (iii) any other fact, which makes it illegal, impossible or not justifiable for the Strategy Sponsor to fulfil its obligations described in the Strategy Description; or
- (c) the Issuer, for whatever reason (e.g. as a result or consequence of the coming into effect of changes in laws or regulations or a change in relevant jurisdiction or administrative practice), loses the right to use the Underlying in connection with the Notes.

**"Strategy Description"** means the description of the Underlying, as further described in Annex I to these Terms and Conditions.

**"Strategy Sponsor"** means the entity specified as such in the Strategy Description.

**"Structuring Fee"** means an amount of up to 30 bps (+ USD 10.000,00) of the Reference Value with a potential minimum amount per annum, which is charged for the structuring, issuance and maintenance of the Notes.

**"Specified Denomination"** means USD 1.000,00 for all Bond Classes.

**"TARGET System"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) system or any successor thereto.

**"Tax Event"** means any amendment to or change in the laws or regulations of Luxembourg or in the interpretation or administration of any such laws or regulations which becomes effective on or after the Issue Date pursuant to which the Issuer would be required to pay additional amounts.

**"Termination Event"** has the meaning given in Condition 7.4.

**"Terms and Conditions"** shall have the meaning given in Condition 1.1.

**"Threshold Amount"** not applicable.

**"Underlying"** means BVI Fund Strategy, as further described in the Strategy Description.

**"Valuation Date"** means each last Calendar Day of the month of each year upon receipt of underlying prices.

Unless otherwise defined herein, words in bold letters which are defined in the Strategy Description shall have the same meaning when used herein.

## 2. **FORM, CLEARING SYSTEM, NOTEHOLDER RIGHTS**

The Notes are represented by one or more collective notes in bearer form (the "**Bearer Collective Notes**") without interest coupons and deposited with the Clearing System. Unless required by law, no physical Notes will be issued. Noteholders are entitled to co-ownership notes within the Bearer Collective Notes. Noteholders have no right to receive physical Notes. The Notes are transferable in accordance with the applicable laws and any applicable rules and procedures of the Clearing System.

## 3. **STATUS; SECURITISATION ACT; COMPARTMENT ASSETS**

### 3.1. **Status**

The obligations under the Notes constitute direct, unconditional and unsecured obligations of the Issuer and rank, unless provided otherwise by law, *pari passu* with all other unsecured unsubordinated present and future obligations of the Issuer. The Notes are limited recourse obligations of the Issuer, as described below in Condition 14. The Noteholders shall have the right to receive payments under the Notes only to the extent of payments received by the Issuer under the Compartment Assets and proceeds from a sale

or termination of the Compartment Assets by the Issuer. The Notes are issued subject to, and will be enforced in Luxembourg, if applicable, in accordance with the provisions of the Securitisation Act 2004 of Luxembourg or any other applicable Luxembourg law.

### **3.2. Securitisation Act 2004**

By subscribing for the Notes, or otherwise acquiring the Notes, the Noteholders expressly acknowledge and accept, and will be deemed to have accepted and acknowledged, that the Issuer (i) is subject to the Securitisation Act 2004 and (ii) has created the Issuing Compartment in respect of the Notes to which all assets, rights, claims and agreements relating to the Notes will be allocated. Furthermore, the Noteholders acknowledge and accept that they have recourse only to the Compartment Assets and not to the assets allocated to any other compartment created by the Issuer or any other assets of the issuer. The Noteholders acknowledge and accept that once all the Compartment Assets have been realized, they are not entitled to take any further steps against the Issuer or the Issuing Compartment to recover any further sums due and the right to receive any such sum shall be extinguished. The Noteholders accept not to attach or otherwise seize the assets of the Issuer allocated to the Issuing Compartment or to other compartments of the Issuer or other assets of the Issuer. In particular, no Noteholder shall be entitled to petition or take any other step for the winding-up, the liquidation and the bankruptcy of the Issuer or any similar insolvency related proceedings. In the case of a conflict between the provisions of this Condition 3.2 and any other Condition, the provisions of this Condition 3.2 shall prevail. For the avoidance of doubt, no Noteholder may initiate proceedings against the Issuer or the Company based on article 98 of the Companies Act 1915.

### **3.3. Compartment Assets**

The Issuer will use the net proceeds of the issuance of the Notes in order to hedge its payment obligations under the Notes and for these purposes from time to time hold certain rights or assets (the "**Compartment Assets**"). The Issuer endeavours to hold at any time Compartment Assets that are, in its reasonable opinion, suitable to ensure full and punctual payment of the amounts due to the Noteholders under the Notes. For the avoidance of doubt, the Issuer shall have no obligation to invest, directly, indirectly, or synthetically, in the Reference Portfolio Components. If all or part of the Compartment Assets is redeemed, sold or otherwise terminated prior to the Maturity Date, any proceeds received by the Issuer in connection with such redemption, sale or termination will be held by the Issuer in Liquid Assets for distribution to the Noteholders on the relevant Redemption Date.

## **4. THE REFERENCE STRATEGY**

### **4.1. Strategy Description**

The basis for the calculations or, respectively, specifications of the Administration and Calculation Agent described in the Terms and Conditions of these Notes shall be the Underlying with its provisions applicable from time to time, as developed and maintained by the Strategy Sponsor and set out in the Strategy Description, as well as the respective method of calculation, determination, and communication of the Reference Value applied by the Strategy Sponsor. This shall also apply if during the term of the Notes changes are made or occur in respect of the Strategy Description, or if other measures are taken, which have an impact on the Strategy Description, unless otherwise provided in the below provisions.

### **4.2. Replacement Specification**

If the Reference Value communicated by the Strategy Sponsor is subsequently corrected and the correction (the "**Corrected Value**") communicated by the Strategy Sponsor after the original communication, but still within five Business Days, then the Administration and Calculation Agent will notify the Issuer of the Corrected Value without undue delay and shall again specify and notify pursuant to Condition 12.1 the relevant value by using the Corrected Value (the "**Replacement Specification**").

## 5. INTEREST PAYMENTS

Provided that

- (i) the Free Liquidity of the Issuer as per any Interest Reference Date exceeds the Threshold Amount,
- (ii) the Free Liquidity of the Issuer will be determined by the Issuer, and
- (iii) the Notes have not been terminated by the Issuer in accordance with Condition 7.2 or Condition 7.4,

the Issuer will pay the Interest Amount on the following Interest Payment Date which is to be determined as follows:

$$IA (t) = (FL (t) - TA (t)) / RN$$

where:

“**IA (t)**” is the Interest Amount to be paid on the relevant Interest Payment Date (t).

“**FL (t)**” is the Free Liquidity on the relevant Interest Reference Date (t).

“**TA (t)**” is the Threshold Amount as for the relevant Interest Reference Date (t).

## 6. REDEMPTION

### 6.1. Redemption Date

Unless otherwise previously redeemed and exchanged or purchased and cancelled in accordance with these Conditions, the Notes shall (subject to the occurrence of a Market Disruption pursuant to Condition 6.3) be redeemed by payment of the Redemption Amount on the respective Redemption Date in accordance with Condition 10.2 against delivery of the Notes to the account of the Paying Agent with the Clearing System to the Issuer's order.

### 6.2. Redemption Amount

With respect to any Redemption Date and the corresponding Valuation Date, the Redemption Amount equals an amount in the Specified Currency, calculated or specified by the Administration and Calculation Agent as follows:

$$RA (t) = SD * (RV (t) / IV) - CE / RN$$

where:

“**RA (t)**” is the Redemption Amount for the relevant Redemption Date (t).

“**SD**” is the Specified Denomination.

“**RV (t)**” is the Reference Value as of the relevant Valuation Date (t)

“**IV**” is the Initial Value.

“**CE (t)**” are the Compartment Expenses per Note incurred until the relevant Valuation Date (t).

“**RN (t)**” is the actual number of Notes outstanding at the relevant Valuation Date (t).

### 6.3. Market Disruptions

If a Market Disruption Event occurs on a Valuation Date, the respective Valuation Date will be postponed to the next following Calculation Date on which the Market Disruption Event no longer exists. In such case, any Payment Date relating to such Valuation Date shall be postponed accordingly and interest shall not be payable due to such postponement. Should the Market Disruption Event continue for more than thirty consecutive Business Days, the Administration and Calculation Agent shall in its reasonable discretion determine the respective Reference Value required for the calculations or, respectively, specifications described in these Terms and Conditions in accordance with prevailing market conditions

around 2 p.m. (Luxembourg time) on the thirty-first Business Day, taking into account the economic position of the Noteholders.

## **7. REDEMPTION RIGHT OF THE SECURITY HOLDERS, ISSUER'S REGULAR CALL RIGHT, ISSUER'S EXTRAORDINARY CALL RIGHT**

### **7.1. Ordinary Put Right of the Noteholders**

The Noteholder may demand ordinary redemption of the Notes (the "**Noteholder Put Right**") at each last Calendar Day of each month of each year (each such date a "**Noteholder Put Date**"). The payment of the Redemption Amount will be within 45 Calendar Days after the Noteholder Put Date.

The exercise of the Redemption Right shall be declared by the Noteholder through transmission of a duly completed form (the "**Noteholder Put Notice**"), available at the offices of the Issuer during normal business hours, to the Issuer (before 16:30 CET) 20 Calendar Days before the designated Noteholder Put Date. In order to be valid, the Noteholder Put Notice shall include, in particular,

- (i) the name and the address of the Noteholder with sufficiently conclusive proof of ownership to the Paying Agent that such Noteholder at the time of such notice is a holder of the respective Notes;
- (ii) the security identification number and the number of Notes; and
- (iii) the cash account held by a bank to which the Redemption Amount is to be transferred.

No Noteholder Put Right so exercised may be revoked or withdrawn. If the number of Notes stated in the Noteholder Put Notice deviates from the number of Notes transferred to the Paying Agent, the Noteholder Put Notice shall be deemed to have been submitted for the number of Notes corresponding to the smaller of the two numbers. Any remaining Notes will be transferred back to the Noteholder at the latter's expense and risk. There is no obligation for the Issuer to fulfil the redemption request.

### **7.2. Ordinary Call Right of the Issuer**

The Issuer may for each Business Day of each year (each such date, an "**Issuer Call Date**"), call the Notes completely or in part (the "**Issuer Call Right**") and redeem the Notes in accordance with Condition 10.2. The Issuer shall give notice of the exercise of the Issuer Call Right call at least five days prior to the relevant Issuer Call Date in accordance with Condition 12.1 (the "**Issuer Call Notice**"). Such notice shall be irrevocable and shall specify the relevant Issuer Call Date.

### **7.3. Extraordinary Cancellation by the Noteholder**

Upon the occurrence of an Event of Default, each Noteholder may cancel its Notes extraordinarily by giving notice in accordance with Condition 12.2 and redeem the Notes at their Cancellation Amount. For these purposes:

**"Event of Default"** means that any of the following events has occurred and is continuing:

- (i) the Issuer fails to perform or observe any of its material obligations under these Terms and Conditions and (except in any case where the failure is incapable of remedy when no such continuation or notice as is hereinafter mentioned will be required) the failure continues (A) in the case of any payments due and payable in respect of any Notes after the end of the relevant Grace Period and (B) in the case of breach of any other material obligation, for the period of thirty (30) consecutive days next following the service by any Noteholder on the Issuer of notice requiring the same to be remedied; or
- (ii) bankruptcy (*faillite*), insolvency, voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), reprieve from payment (*sursis de paiement*), controlled management (*gestion contrôlée*), general settlement or composition with creditors

(*concordat préventif de la faillite*), reorganisation or similar Luxembourg or foreign laws proceedings affecting the rights of creditors generally are opened against the Issuer and remain in effect for a period of thirty (30) consecutive days; or

- (iii) the Issuer stops or threatens to stop payment of, or is unable, or admits inability, to pay its debts (or any class of its debts) as they fall due, or is deemed unable to pay its debts pursuant to or for the purposes of any applicable law and has lost its creditworthiness.

**"Cancellation Amount"** shall be the fair market value of the Notes as of the third Business Day before the extraordinary call by the Noteholder becomes effective, determined by the Administration and Calculation Agent in its reasonable discretion.

#### **7.4. Extraordinary Termination by the Issuer**

Upon the occurrence of a Termination Event, the Issuer may terminate all Notes extraordinarily by giving notice in accordance with Condition 12.1 (the **"Issuer Termination Notice"**) and redeem the Notes at their Liquidation Amount. Such call shall become effective at the time indicated in the Issuer Termination Notice. No later than three Business Days from the issue of an Issuer Termination Notice, the Issuer shall appoint a liquidator and such liquidator shall procure the liquidation of the Compartment Assets and pay the Liquidation Proceeds to the Issuer within the Liquidation Period. On the third Business Day following the receipt by the Issuer of the Liquidation Proceeds, the Issuer shall inform the Noteholders of the Liquidation Amount and the exact date on which the Liquidation Amount will be paid to the Noteholders. The Issuer will not be liable for any action or omission by it (or, for the avoidance of doubt, by the Liquidator or any third party) in connection with a liquidation of the Compartment Assets in accordance with this Condition 7.4, unless such action or omission has been directly caused by the Issuer's gross negligence or wilful misconduct. For the avoidance of doubt, the liquidator may exercise any rights in relation to the Compartment Assets as the Issuer deems appropriate. The Issuer shall not be in default of its payment obligations under the Notes if and for so long as any claims that the Issuer may have under or in connection with the Compartment Assets have not been satisfied in full. For the avoidance of doubt, if the Issuer receives a partial payment of the amount due to it in respect of the Compartment Assets, the amount so received will be held by the Issuer until the end of the Liquidation Period. For the purposes of this Condition 7.4:

**"Liquidation Amount"** shall be a pro-rata share in the Liquidation Proceeds, determined by the Administration and Calculation Agent in its reasonable discretion as (i) the Liquidation Proceeds less the accrued Compartment Expenses. Divided by (ii) the number of outstanding Notes.

**"Liquidation Proceeds"** means all net proceeds sums derived from the liquidation of the Compartment Assets (after deduction of any costs, fees and expenses charged by the liquidator in connection therewith).

**"Termination Event"** means that any of the following events or circumstances has occurred and is continuing:

- (i) a Change in Law;
- (ii) a Force Majeure Event;
- (iii) a Hedging Disruption;
- (iv) Increased Costs of Hedging;
- (v) a Strategy Call Event;
- (vi) a Regulatory Event;
- (vii) a Tax Event;
- (viii) the aggregate Nominal Amount of Notes outstanding is less than USD 1.000.000,00; or

- (ix) an economical administration is not possible.

## **8. ISSUER COVENANTS**

### **8.1. Undertakings**

So long as any of the Notes remain outstanding, the Issuer shall not

- (i) incur any other indebtedness in respect of the Issuing Compartment or engage in any business (other than acquiring, holding and liquidation of the Compartment Assets and entering into any agreement and transaction required or desirable in connection with the issuance, administration (including but not limited to the holding of meetings of Noteholders) or redemption of the Notes),
- (ii) declare any dividends,
- (iii) have any subsidiaries or employees,
- (iv) purchase, own, lease or otherwise acquire any real property (including office premises or like facilities),
- (v) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entity to any person (otherwise than as contemplated in these Terms and Conditions).

### **8.2. Information**

So long as any of the Notes remain outstanding, the Issuer shall

- (i) promptly furnish the Noteholders with all information and documents received from Strategy Sponsor in relation to the Reference Strategy (unless the provision of such information or documents has explicitly been restricted by the Strategy Sponsor); and
- (ii) promptly notify the Noteholders of the occurrence of any Event of Default in accordance with Condition 12.1.

## **9. AGENTS**

### **9.1. Role of Agents**

Any Agents appointed by the Issuer to act in connection with the Notes act solely as agents of the Issuer and do not assume any obligation or duty to, or any relationship of agency or trust for or with, the Noteholders.

### **9.2. Replacement of Agents**

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of any of the Agents, or to appoint additional or other Agents, provided that that it will at all times maintain

- (i) a Paying Agent with a specified office in a continental European city, and
- (ii) so long as the Notes are listed on a stock exchange, a Paying Agent with a specified office in such city as may be required by the rules of the relevant stock exchange.

The Paying Agent reserves the right at any time to change its respective specified offices to some other specified office in the same city. Notice of all changes in the identities or specified offices of any Agents will be given promptly by the Issuer to the Noteholders in accordance with Condition 12.1.

### **9.3. Determinations**

All determinations (including, in the case of the Administration and Calculation Agent, calculations) of the Agents made in respect of the Notes shall be made in their sole and absolute discretion and shall be final, conclusive and binding on the Issuer and the

Noteholders in the absence of a manifest error. In particular, the Administration and Calculation Agent, in making any determination, adjustment or calculation in relation to the Notes, shall at all times act in good faith and in a commercially reasonable manner. The Noteholders shall (in the absence of a manifest error as aforesaid) not be entitled to proceed against any of the Agents in connection with the exercise or non-exercise by it of its obligations, duties and discretions in connection with the Notes.

#### **9.4. Delegation**

Any of the Agents may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

### **10. DETERMINATIONS; PAYMENTS; TAXES**

#### **10.1. Determinations**

All calculations to be made under these Terms and Conditions will be made by the Administration and Calculation Agent. Such calculations will (in the absence of wilful misconduct, bad faith or manifest error) be binding on the Issuer and the Noteholders. The amounts payable under these Terms and Conditions shall be rounded up or down to the smallest unit of the Specified Currency, with 0.5 of such unit being rounded upwards.

#### **10.2. Payments**

Payment of all amounts in respect the Notes shall be made to the Clearing System or to its order for credit to the relevant account holders of the Clearing System. The Issuer shall be discharged by payment to, or to the order of, the Clearing System.

#### **10.3. Business Days Convention**

If the due date for any payment under the Notes (the "**Payment Date**") is not a Business Day, then the Noteholders shall not be entitled to payment until the next following Business Day. The Noteholders shall not be entitled to further interest or other payments in respect of such delay.

#### **10.4. Taxes**

All payments in respect of the Notes by or on behalf of the Issuer will be made without withholding or deduction for or on account of any present or future taxes, duties, assessment or governmental charges of whatever nature imposed or levied by or on behalf of any Tax Jurisdiction unless such withholding or deduction is required by law. In the event that any withholding tax or deduction for tax is imposed on payments of interest on the Notes, the holders of such Notes will not be entitled to receive grossed-up amounts to compensate for such withholding tax. "**Tax Jurisdiction**" means the Grand Duchy of Luxembourg or any political subdivision or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to which the Issuer becomes subject in respect of payments made by it of principal and interest on the Notes.

### **11. SUBSTITUTION OF THE ISSUER**

#### **11.1. New Issuer**

The Issuer may without the consent of the Noteholders, if no payment of principal or interest on any of the Notes is in default, at any time substitute the Issuer for any Affiliate of the Issuer as principal debtor in respect of all obligations of the Issuer under the Notes (the "**New Issuer**"), provided that (i) the New Issuer assumes all obligations of the Issuer in respect of the Notes, (ii) the Issuer and the New Issuer have obtained all necessary authorizations and may transfer to the Paying Agent in the currency required hereunder and without being obligated to deduct or withhold taxes or other duties of whatever nature levied by the Country, in which the New Issuer or the Issuer has its domicile or tax residence, all amounts required for the fulfilment of the payment obligations arising under

the Notes, (iii) the New Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty or other governmental charge imposed on such Noteholder in respect of such substitution and (iv) the Issuer guarantees proper payment of the amounts due under these Terms and Conditions.

#### **11.2. Notice**

The Noteholders shall be informed of any substitution pursuant to Condition 11.1 in accordance with Condition 12.1.

#### **11.3. References**

In the event of any substitution pursuant to Condition 11.1, any reference in these Terms and Conditions to the Issuer shall be deemed to refer to the New Issuer. Furthermore, any reference to the country, in which the Issuer is domiciled or resident for taxation purposes, shall be deemed to refer to the country of domicile or residence for taxation purposes of the New Issuer.

### **12. COMMUNICATION**

#### **12.1. Notices to the Noteholders**

All notices relating to the Notes shall be made through the Clearing System.

#### **12.2. Notices to the Issuer**

All notices to the Issuer will be deemed to be validly given if sent by registered mail to the Issuer at its registered office as published in the files of the Luxembourg trade and companies register (*Registre du commerce et des sociétés*, Luxembourg) and will be deemed to have been given on the 5<sup>th</sup> (fifth) Business Day after mailing.

### **13. MEETINGS OF NOTEHOLDERS**

Articles 86 to 97 of the Companies Act 1915 are not applicable to the Notes. Annex II to these Terms and Conditions (which forms an integral part of the Terms and Conditions) contains detailed provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including the modification of these Terms and Conditions.

### **14. LIMITED RECOURSE; NON-PETITION**

#### **14.1. Limited Recourse**

The rights of Noteholders to participate in the assets of the Issuer are limited to the Compartment Assets. If the payments and/or deliveries received by the Issuer in respect of the Compartment Assets are not sufficient to discharge all liabilities and obligations towards the Noteholders, the obligations of the Issuer in respect of the Notes will be limited to the Compartment Assets. The Issuer will not be obliged to make any further payments and/or deliveries to Noteholders in excess of the amounts received upon the realisation of the Compartment Assets. Following the application of the proceeds of realisation of the Compartment Assets in accordance with the Terms and Conditions, the claims of the Noteholders for any shortfall shall be extinguished and the Noteholders (and any person acting on behalf of any of them) may not take any further action to recover such shortfall.

#### **14.2. Non-Petition**

In particular, no such party has the right to petition for the winding-up, the liquidation or the bankruptcy of the Issuer as a consequence of any shortfall or to take any similar proceedings. Failure to make payment in respect of any shortfall shall in no circumstances constitute an event of default under the Terms and Conditions. Any shortfall under the Issuing Compartment shall be borne by the Noteholders as specified in these Terms and Conditions.

The Noteholders may be exposed to competing claims of other creditors of the Issuer, the claims of which have not arisen in connection with the creation, the operation or the liquidation of the Issuing Compartment if foreign courts, which have jurisdiction over assets of the Issuer allocated to a compartment (such as, the Issuing Compartment) do not recognize the segregation of assets and the compartmentalisation, as provided for in the Securitisation Act 2004. The claims of these other creditors may affect the scope of assets which are available for the claims of the Noteholders. If as a result of such claims, a shortfall arises, such shortfall will be borne by the Noteholders.

## **15. ISSUANCE OF ADDITIONAL NOTES; REPURCHASE**

### **15.1. Issuance of additional Notes**

The Issuer reserves the right from time to time without the consent of the Noteholders to issue additional Notes with identical terms and conditions (except for the issue date and the issue price), so that the same shall be consolidated and form a single series (the "**Series**") with this Tranche. The term "**Notes**" shall, in the event of such increase, also comprise all additionally issued Notes.

### **15.2. Repurchase**

The Issuer shall be entitled at any time to purchase Notes in the market or otherwise and at any reasonable price. Notes repurchased by the Issuer may, at the Issuer's discretion, be held, resold or forwarded to the Paying Agent for cancellation.

## **16. PARTIAL INVALIDITY; MODIFICATIONS**

### **16.1. Invalidity**

Should any provision of these Terms and Conditions be or become invalid or unenforceable in whole or in part, the remaining provisions are not affected thereby. Any gap arising as a result of invalidity or unenforceability of these Terms and Conditions is to be filled with a provision that corresponds to the meaning and intent of these Terms and Conditions and is in the interest of the parties.

### **16.2. Modifications**

The Issuer may make, without the consent of the Noteholders, any modification to the Terms and Conditions which is of a formal, minor or technical nature or is made to correct a manifest or proven error or to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated or to reflect any change of law which has an impact on the Issuer's obligations under the Notes. Any such modification shall be binding on the Noteholders and any such modification shall be notified to the Noteholders by way of a written notice in accordance with Condition 12.1.

## **17. PRESCRIPTION**

Claims against the Issuer for payment in respect of the Notes shall be prescribed and become void unless made within ten years (in the case of principal) and five years (in the case of interest) from the date on which the relevant payment first becomes due. The Luxembourg act dated 3 September 1996 on the involuntary dispossession of bearer Notes, as amended (the Involuntary Dispossession Act 1996) requires that, in the event that (i) an opposition has been filed in relation to the Notes and (ii) the Notes mature prior to becoming forfeited (as provided for in the Involuntary Dispossession Act 1996), any amount that is payable under the Notes, but has not yet been paid to the Noteholders, will be paid to the Caisse des consignations in Luxembourg until the opposition has been withdrawn or the forfeiture of the Notes occurs.

## **18. GOVERNING LAW, PLACE OF PERFORMANCE, PLACE OF JURISDICTION**

### **18.1. Governing Law**

The Notes are governed by and shall be construed in accordance with Luxembourg law.

### **18.2. Jurisdiction**

To the extent permitted by law, the Luxembourg district courts are to have jurisdiction to settle any disputes which may arise out of or in connection with the Notes and accordingly any legal action or proceedings arising out of or in connection with the Notes (“**Proceedings**”) may be brought in such courts. Each of the Issuer and the Noteholders irrevocably submit to the jurisdiction of the Luxembourg district courts and waive any objection to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum.

## **19. UNITED STATES**

The Notes will not be offered and issued to U.S. persons as defined in Regulation S of the U.S. Securities Act of 1933.

## **20. PRIVATE PLACEMENT**

The Bearer Notes are only for professional and institutional investors within the meaning of article 1(5) of the law of 5th April 1993 on the financial sector, as amended. The Bearer Notes are intended exclusively for Private Placement.

Annex I:

**Strategy Description**

Annex II:

**Rules of Procedure for Noteholder Meetings**

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